

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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**NATHANIEL RHODES, JR.,**  
                    **Petitioner,**

**vs.**

**DAVID A. VARANO, et al.,**  
                    **Respondents.**

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**CIVIL NO. 08-3236**

**ORDER**

**AND NOW**, this 28th day of July 2011, upon consideration of Petitioner's Petition for Writ of Habeas Corpus [doc. no. 1], Respondents' Answer and Memorandum of Law in Response thereto [doc. no. 6]; Petitioner's Memorandum of Law in Support of Motion Seeking Leave to Amend the Habeas Petition [doc. no. 16]; the Report and Recommendation of United States Magistrate Judge Elizabeth T. Hey dated March 26, 2009 [doc. no. 20]; Respondents' Objections to that Report and Recommendation [doc. no. 22]; and Petitioner's Motion for an Evidentiary Hearing [doc. no. 29], it is **HEREBY ORDERED** that:

1. The Report and Recommendation is **APPROVED** and **ADOPTED IN PART** and **REJECTED IN PART** as follows:

- a. That part of the Report and Recommendation relating to petitioner's Batson challenge to the "below the line" strike of juror number 41 is **REJECTED**; and
- b. That part of the Report and Recommendation relating to petitioner's ineffective assistance of trial counsel and evidentiary claims are **APPROVED** and **ADOPTED**;

2. Respondents' Objections to the Report and Recommendation are **SUSTAINED**;
3. The Petition for Writ of Habeas Corpus is **DENIED** in all respects.

The Clerk of Court is directed to **CLOSE** this case.

**IT IS SO ORDERED.**

**BY THE COURT:**

  
HON. CYNTHIA M. RUFÉ